

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ANTHONY A. COLLIER,)
)
)
Movant,) Case No. 06-0056-CV-W-DW-P
)
v.)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

ORDER

Movant Anthony A. Collier pleaded guilty—without a plea agreement—to bank fraud, identity theft, and fraudulent use of a social security number. The Eighth Circuit affirmed his sentence on direct appeal. See United States v. Collier, 413 F.3d 858 (8th Cir. 2005). Now before the Court is Collier’s motion for post-conviction relief under 28 U.S.C. § 2255 (Doc. 1). He argues (1) that this Court erred by failing to run his sentence concurrently with an undischarged state sentence; (2) that his sentence violates the Ex Post Facto Clause in that the 2003 version of the sentencing guidelines was used instead of the 1999 version, resulting in a harsher sentence; (3) that he was denied effective assistance of counsel during the plea, sentencing, and appeal of his case; and (4) that his sentence violates *Booker*. After carefully reviewing the briefing, and for the reasons stated in the government’s response (Doc. 11), the Court denies the motion.

The Court concludes that Collier has not made a substantial showing of the denial of a constitutional right such that the issues presented are debatable among jurists of reason. See Randolph v. Kemna, 276 F.3d 401, 403 n.1 (8th Cir. 2002); 28 U.S.C. § 2253(c)(2). Therefore,

the Court denies a certificate of appealability.

Finally, based on the arguments and record, the Court will deny Collier's motion for leave to obtain discovery (Doc. 8). See Dyer v. United States, 23 F.3d 1421, 1424 (8th Cir. 1994).

The Court hereby

DENIES Collier's section 2255 motion (Doc. 1);

DECLINES to issue a certificate of appealability on any claim raised in the motion; and

DENIES Collier's motion for discovery (Doc. 8).

SO ORDERED.

/s/ DEAN WHIPPLE
Dean Whipple
United States District Judge

Date: September 15, 2006